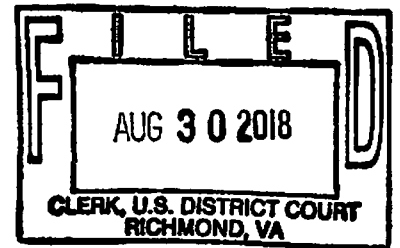


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



UNITED STATES OF AMERICA

v.

Criminal No. 3:17CR03

SHAPAT AHDAWAN NABAYA,

Petitioner.

MEMORANDUM OPINION

Petitioner, a federal prisoner proceeding *pro se*, has submitted a motion pursuant to 28 U.S.C. § 2255. Petitioner's direct appeal is currently pending. It is well-settled that a motion under section 2255 should not normally proceed while an appeal from the conviction is pending. *See* 3 Charles A. Wright, *et al.*, Federal Practice and Procedure Criminal § 597 (3d ed. 2008); *see also* Rules Governing Section 2255 Proceedings for the United States District Courts, Advisory Committee's Note to Rule 5 (explaining that "the orderly administration of criminal law precludes considering such a motion absent extraordinary circumstances" (quoting *Womack v. United States*, 395 F.2d 630, 631 (D.C. Cir. 1968))). Accordingly, Petitioner's 28 U.S.C. § 2255 Motion (ECF No. 317) will be DISMISSED WITHOUT PREJUDICE to refile after the conclusion of his direct appeal. A certificate of appealability will be DENIED.

An appropriate Order shall issue.

M. Hannah Latock
United States District Judge

Date: **August 30, 2018**
Richmond, Virginia